

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-17—sSB 235

Judiciary Committee

**AN ACT CONCERNING THE ADOPTION OF THE UNIFORM
ELECTRONIC LEGAL MATERIAL ACT**

SUMMARY: This act establishes as state law a version of the Uniform Electronic Legal Material Act (UELMA), which the National Conference of Commissioners on Uniform State Laws adopted in 2011.

UELMA provides for the authentication and preservation of electronic records of legal material published by the state (e.g., the General Statutes or court cases). The act does not require the state to publish legal material electronically, but sets certain requirements if the state does so and designates the record as official.

Among other things, this act provides that properly authenticated electronic legal materials are presumed to be accurate copies of the official material.

EFFECTIVE DATE: October 1, 2014

UELMA

§ 2-3 — Applicability and Definitions

The act applies to all legal material in an electronic record that is designated as official under the act and first published electronically on or after October 1, 2014. Thus, in addition to new material, the act applies to older material being converted into an electronic format if that format is designated as the official version (see below).

The following definitions apply in the act.

“Legal material” means the following, whether or not they are in effect: the state constitution; the General Statutes; state agency regulations; and reported decisions of the state Supreme, Appellate, and Superior courts.

The “official publisher” of legal material varies depending on the material. The secretary of the state is the official publisher of the state constitution and state agency regulations. The Joint Committee on Legislative Management is the official publisher of the General Statutes. The Commission on Official Legal Publications is the official publisher of reported court decisions.

A “state” means a U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or island possession subject to U.S. jurisdiction.

§ 4 — Legal Material in Official Electronic Records

Under the act, if an official publisher publishes legal material only in an electronic record, the publisher must (1) designate the electronic record as the official record and (2) comply with the act’s provisions on authentication (§ 5), preservation and security (§ 7), and permanent public access (§ 8).

If an official publisher publishes legal material in both electronic and non-

electronic form, it can designate the electronic record as the official record if it complies with the provisions noted above.

§ 5 — Authentication of Official Electronic Records

The act requires the official publisher to authenticate an official electronic record. To do so, the publisher must provide a way for a user to determine that the record he or she receives from the official publisher is the same as the version that the publisher designated as the official version. (The act does not specify how a publisher might do this.)

§ 6 — Effect of Authentication

Under the act, authenticated legal material in an electronic record is presumed to be an accurate copy of the material. Someone contesting such an authentication has the burden of proving by a preponderance of the evidence that the record is not authentic.

The act specifies that legal material in electronic records maintained by another state is presumed to be an accurate copy if that state has (1) adopted a law substantially similar to the act and (2) designated the material as official and authenticated it.

§ 7 — Preservation and Security

The act requires an official publisher of legal material in an electronic record that is or was designated as official to provide for the record's preservation and security, in electronic form or otherwise. Publishers that preserve such material electronically must (1) ensure the record's integrity, (2) provide for its backup and recovery in case of disaster, and (3) ensure the material's continuing usability.

§ 8 — Public Access

Official publishers of legal material in an electronic record that must be preserved under the act must ensure that the material is reasonably and permanently available for public use.

§ 9 — Standards

The act requires official publishers of legal material in electronic records, in implementing the act, to consider:

1. other jurisdictions' standards and practices;
2. the most recent authentication, preservation, security, and public access standards concerning legal material in electronic records and other unspecified electronic records, as promulgated by national standard-setting bodies, and standards or guidelines that the state librarian or public records administrator establishes under law;
3. the needs of the material's users;
4. the views of government officials, government entities, and other interested persons; and
5. to the extent practicable, methods and technologies for giving public

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access to and authenticating, preserving, and securing legal material that are compatible with those used by other official publishers in Connecticut and other states that have adopted a law substantially similar to UELMA.

§ 10 — Uniformity of Application and Construction

The act specifies that in applying and construing UELMA, consideration must be given to the need to promote uniformity of law with respect to its subject matter among states that enact it.

§ 11 — E-SIGN Act

The act provides that its provisions modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce (E-SIGN) Act. But they do not (1) modify, limit, or supersede E-SIGN's provisions on consumer disclosures or (2) authorize electronic delivery of specified notices not subject to E-SIGN.

The federal E-SIGN Act (15 USC § 7001 et seq.) validates the use of electronic records and signatures in interstate commercial transactions, with some exceptions. Connecticut has also enacted the Connecticut Uniform Electronic Transactions Act (CUETA) (CGS §§ 1-266 to 1-286).

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